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SUBJECT: MOJ DEFENDS REVISED SHIA LAW; HIGHLIGHTS STRONG
ELIMINATION OF VIOLENCE AGAINST WOMEN BILL

REF: A. KABUL 1860

[¶](#)B. KABUL 1773

[¶](#)C. KABUL 1173

[¶](#)11. (SBU) MOJ will publish the Shia Personal Status and the Elimination of Violence against Women (EVAW) laws pending receipt of President Karzai's written authorization, expected within several days, Minister of Justice Danish told Deputy Ambassador Ricciardone during a July 14 discussion.

Competing demands from civil society and Shia scholars challenged MOJ's review of the Shia Law, but Danish felt the revisions fairly addressed the differing views. During the review process, MOJ officials consulted family laws from Egypt, Jordan, United Arab Emirates, Lebanon, Syria, and Iran. The Afghan law as revised more fully protects and updates women's rights than these countries' laws, Danish claimed.

[¶](#)12. (SBU) Women's rights activists who continue to press for additional revisions are emphasizing their own individual interests over the broader societal consensus, Danish claimed, and noted that Foreign Minister Spanta and Afghan Independent Human Rights Commission Chair Samar were satisfied with the revisions. As further evidence of the progressive nature of the changes, conservative Shia leaders had publicly and privately denounced the revisions, Danish said.

[¶](#)13. (SBU) Danish admitted some problems with the Shia Law may become evident during implementation or as societal values continue to shift. These problems would likely be minor and only affect a small portion of the population, he claimed. If necessary, the government could, in the future, further revise the law.

[¶](#)14. (SBU) Danish also emphasized an additional step the Afghan government was taking to strengthen the protection of women's equality. Provisions of the soon to be published Elimination of Violence against Women law (text provided on July 14 to the Afghan desk) would address potential drawbacks of the Shia Family Law, Danish claimed. For example, EVAW criminalizes 22 forms of violence against women including preventing women from working, pursuing an education, or accessing health-care facilities.

Comment

[¶](#)15. (SBU) We believe the EVAW bill is an excellent piece of legislation, containing a comprehensive definition of violence against women, and providing appropriate corresponding criminal penalties. Unlike the Shia Family Law, as a secular law, its provisions will apply to all Afghans, without regard to their religion or sect. MOJ received and incorporated civil society comments into the EVAW bill throughout the drafting process. We judge that Danish overstates his argument that the EVAW law will solve any remaining issues with the Shia Family Law; however, taken together, Cabinet's approval of a flawed but improved Shia

Family Law, and a strong, well-drafted domestic violence law, is a clear positive step.

EIKENBERRY